Decision for dispute CAC-UDRP-100683

Case number	**CAC-UDRP-100683**
Time of filing	**2013-10-16 10:30:56**
Domain names	**remimartine.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**E. REMY MARTIN & C°**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Cynthia Gardner**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings in connection with the domain name.

IDENTIFICATION OF RIGHTS

The Complainant has submitted trademark certificates for a number of countries around the world, including US Trademark No. 0749501 for the Word Mark REMY MARTIN, filing date May 15, 1962. To the knowledge of the Panellist, the mentioned trademark is still valid and in force.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Confirmation of the reputation of the Complainant and the "REMY MARTIN" mark may be found from the previous CAC, WIPO, national registry domain names and Court Decisions, such as:

ADR 100564 <ruouremymartin.com> and <buyremymartin.com> E. REMY MARTIN & C° vs Tuan Nguyen Anh
WIPO 100548 <remymartinlouisxiii.com> and <louisxiiicognac.com> E. REMY MARTIN & C° vs Fred Frampton
WIPO D2012-0735 <remymartinxo.com> and <remymartinvs.com> E. Remy Martin & Co vs Giammario Villa
WIPO D2012-0077 <cognacremymartin.com> and <cognac-remymartin.com> E. Remy Martin & C° and Jerome Salem, Trednet

On those facts, the Complainant contends that the disputed domain name is confusingly similar and phonetically identical to its earlier well-known trademark REMY MARTIN® in which the Complainant has prior rights.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED. However, a letter signed by Cynthia Gardner was received on 27 November 2013. She declares she had no knowledge of the registration of this domain name and claims the use of her name in the registration of the domain name was fraudulent.
The Panel cannot ascertain whether these allegations are true, but in any case, these do not affect the decision of the Panel included hereinbelow.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The Panel finds that the disputed domain name <remimartin.com> is confusingly similar to the Complainant’s earlier trade mark "REMY MARTIN". The Panel considers that the misspelling in the domain name does not alter this conclusion.

2. It has not been proven any use of the disputed domain name in connection with a bona fide offering of goods or services. UDRP panels have previously held that Respondent’s use of a domain name, which incorporates a third party’s trademark in connection with an Internet web site that merely lists links to third party web sites is not a bona fide offering of services. The Respondent is obviously not commonly known by the domain name and it is not making a legitimate non-commercial or fair use of it. There appears to be no other basis on which the Respondent could claim any rights or legitimate interests.

In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3. The Complainant proved to the satisfaction of the Panel that the Respondent registered and used a domain name that is confusingly similar to Complainant's mark to attract, for commercial gain, Internet users to its web site, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of its website and the services offered at such websites. (UDRP 4(b)(iv)).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **REMIMARTINE.COM**: Transferred

PANELLISTS

Name	**Jose Checa**

DATE OF PANEL DECISION 2013-11-27

Publish the Decision